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Rehnquist Asks Limit to Automatic Appeals

Supreme Court file

By LINDA GREENHOUSE
Special to The New York Times

WASHINGTON, Sept. 15 — Associate Justice William H. Rehnquist of the Supreme Court today proposed eliminating the absolute right to appeal cases from the Federal trial courts as one way of reducing the cost of ordinary civil lawsuits.

Speaking at the University of Florida Law School in Gainesville, Justice Rehnquist said the cost and delay involved in trying even simple cases had put courts out of reach for many people. He said law schools and law professors had failed to devote adequate attention to the problem of how to make the legal system more accessible by making it simpler. The Supreme Court made his speech available here.

"It is time the profession began talking seriously about how delay may be drastically reduced in ordinary civil litigation, and expense curtailed," Justice Rehnquist said.

"Perhaps," he continued, "the time has come to abolish appeal as a matter of right from the district courts to the courts of appeals, and allow such review only where it is granted in the discretion of a panel of the appellate court."

Justice Rehnquist did not elaborate on his proposal, which would presumably allow the United States Courts of Appeals to weed out frivolous cases much as the Supreme Court itself refuses to hear most of the cases brought to it. The 13 Federal circuit courts now receive about 30,000 appeals a year.

While the Supreme Court itself was established by the Constitution, there was no constitutional requirement for intermediate appellate courts. Congress did not set up the modern appeals courts until 1891.

In his speech, Justice Rehnquist also proposed placing limitations on the often time-consuming process by which parties in a lawsuit examine each other's documents to discover the facts in a case.

"Perhaps we should entirely abolish discovery in cases where the demand is for a money judgment below a certain dollar amount," he said, "or at least sharply limit it so that discovery must be authorized by the court and granted only if deemed essential to a just result."

Justice Rehnquist said at least one factor in litigation costs was the legal profession's "seeming compulsion to make sure that the final result reached in any case is the correct one."

A Price to Pay

"Standing by itself, this concern is obviously a meritorious one," he continued. "All of us would hope that the result reached in a particular case was the correct one rather than the incorrect one. But what price are we willing to pay for this value in terms of lawyers' time, speedy disposition and finality?" He said the result was "a system ideally suited to a lawsuit by General Motors against I.B.M., both of which have the resources to afford the expense, and the stability to accommodate to the delay."

The administration of justice is a "government monopoly," Justice Rehnquist said. In offering a system that most people cannot afford, he continued, "it is very much as if the government were to announce a governmental monopoly on the production of cars, and then proceed to produce only Cadillac limousines with jump seats."

Justice Rehnquist also gave the law professors a wry defense of the Supreme Court and its product. Much academic commentary on the Court's work, he said, "holds us up to a far higher standard than any group of nine mortals can expect to attain."

"If our opinions seem on occasion to be internally inconsistent, to contain a logical fallacy, or to insufficiently distinguish a prior case," he said, "I commend you to the view attributed to Chief Justice Hughes upon his retirement from our Court in 1941. He said that he always tried to write his opinions logically and clearly, but if a Justice whose vote was necessary to make a majority insisted that particular language be put in, in it went, and let the law reviews figure out what it meant."

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